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ELASTICSEARCH B.V.  
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10 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**  
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14 ELASTICSEARCH, INC., a Delaware  
corporation, and ELASTICSEARCH B.V., a  
15 Dutch corporation,

16 Plaintiffs,

17 v.

18 FLORAGUNN GmbH, a German corporation,

19 Defendant.  
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Case No. 4:19-cv-05553-YGR

**DECLARATION OF DAVID R.  
EBERHART IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANT'S MOTION TO  
EXCLUDE PORTIONS OF  
TESTIMONY OF PLAINTIFFS'  
EXPERT MARTIN WALKER**

1 I, David R. Eberhart, declare:

2 1. I am a partner at O'Melveny & Myers LLP and counsel of record for Plaintiffs  
3 Elasticsearch, Inc. and elasticsearch B.V (collectively, "Elastic"). I make this declaration based  
4 on my own personal knowledge and review of the documents attached hereto. If called as a  
5 witness, I could and would testify under oath to the matters set forth herein.

6 2. I make this declaration pursuant to Northern District of California Civil Local  
7 Rules 7-2(d) and 7-5 in support of Elastic's Opposition to Defendant floragunn GmbH's Motion  
8 to Exclude Portions of Testimony of Plaintiffs' Expert Martin Walker.

9 3. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of Elastic  
10 N.V.'s Form 10-K for the fiscal period ending on April 30, 2020 that was filed with the United  
11 States Securities and Exchange Commission.

12 4. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of the rebuttal  
13 Report of Defendant floragunn GmbH's expert witness Dr. Owen Astrachan in this matter, dated  
14 July 9, 2021.

15 5. Attached hereto as **Exhibit C** is a true and correct copy of Elastic's blog post titled  
16 "X-Pack 5.0.0 Released," by Steve Kearns, available at the Elastic URL  
17 <https://www.elastic.co/blog/x-pack-5-0-0-released>.

18 6. Attached hereto as **Exhibit D** is a true and correct copy of excerpts of the  
19 transcript of the March 1, 2021 deposition of Jochen Kressin in this matter.

20 7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts of the  
21 transcript of the April 15, 2021 Rule 30(b)(6) deposition of Jochen Kressin in this matter.

22 8. Attached hereto as **Exhibit F** is a true and correct copy of Exhibit 185 from the  
23 March 9, 2021 Rule 30(b)(6) deposition of Jochen Kressin in this matter.

24 9. Attached hereto as **Exhibit G** is a true and correct copy of excerpts of the Expert  
25 Report of Elastic's expert witness Dr. Martin Walker in this matter, dated June 11, 2021.

26 10. Attached hereto as **Exhibit H** is a true and correct copy of Exhibit 161 to the  
27 March 1, 2021 deposition of Jochen Kressin in this matter.

1           11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts of the transcript  
2 of the February 17, 2021 deposition of Uri Bones in this matter.

3           12. Attached hereto as **Exhibit J** is a true and correct copy of a November 25, 2021  
4 email that I received from James K. Rothstein, counsel for Elastic in this matter, to V. David  
5 Rivkin, Michael Kwun, and John Smitten, counsel for Defendant floragunn GmbH in this matter.

6           13. Attached hereto as **Exhibit K** is a true and correct copy of excerpts from Elastic's  
7 Fifth Requests for Production to Defendant floragunn GmbH in this matter.

8           14. Attached hereto as **Exhibit L** is a true and correct copy of a February 9, 2021  
9 email from V. David Rivkin, counsel for Defendant floragunn GmbH in this matter to me.

10           15. Attached hereto as **Exhibit M** is a true and correct copy of excerpts of the Expert  
11 Reply Report of Elastic's expert witness Dr. Martin Walker in this matter, dated July 23, 2021.

12           16. Attached hereto as **Exhibit N** is a true and correct copy of excerpts of the August  
13 10, 2021 deposition of Elastic's expert witness Dr. Martin Walker in this matter.

14           17. Attached hereto as **Exhibit O** is a true and correct copy of excerpts of the August  
15 13, 2021 deposition of Defendant floragunn GmbH's expert witness Dr. Owen Astrachan in this  
16 matter.

17           18. Attached hereto as **Exhibit P** is a true and correct copy of excerpts of the transcript  
18 of the March 9, 2021 Rule 30(b)(6) deposition of Jochen Kressin in this matter.

19           19. Attached hereto as **Exhibit Q** is a true and correct copy of Exhibit 326 from the  
20 April 27, 2021 Rule 30(b)(6) deposition of Jochen Kressin in this matter.

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I declare under penalty of perjury that the foregoing is true and correct. Executed this September 21, 2021, at San Francisco, California.

David R. Eberhart